IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 4416 of 2007()

CRIME NO.6/06 OF EXCISE RANGE OFFICE HOSODURG

PETITIONER/ACCUSED

N.SULOCHANA, AGED 39 YEARS,
W/O GIRILAL, MARAKKAPPU KADAPPURAM,
KANHANGAD VILLAGE, HOSDURG TALUK,
KASARAGOD.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT

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1. STATE-REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. EXCISE RANGE OFFICER,
EXCISE RANGE OFFICE,
HOSDURG, (C.R.NO.6/06).

BY PUBLIC PROSECUTOR SRI. P. RAVINDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4416 of 2007

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Dated this the 20th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner, a woman, was allegedly found to be in possession of 5 litres of arrack on 6.2.2006. The party of the detecting officials did not have a lady officer and therefore the petitioner was not arrested. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner's daughter is alone in the house. All these circumstances may be taken into consideration and anticipatory bail may be granted to the petitioner, submits the counsel.

2. The learned Prosecutor opposes the application. In the wake of opposition by the Public Prosecutor even regular bail can be granted to the petitioner only if this court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act. In the facts and circumstances of this case, I am unable to entertain either of those satisfactions. I am convinced that this is not a fit case where the extra ordinary equitable discretion under

Section 438 Cr.P.C. can or deserves to be invoked in favour of the petitioner. The petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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